

**CANADA
PROVINCE OF QUEBEC
TOWN OF LAC-BROME**

**BY-LAW 534
ON THE USE OF PESTICIDES AND FERTILIZERS
(2010)**

Amended by	By-law 538	EEV 2010-05-12
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WHEREAS that the *Pesticides Act R.S.Q. chapter P-9.3* recognizes the power of municipalities to intervene in the application of domestic pesticides.

WHEREAS that the Town Council of the Town of Brome Lake wishes to preserve the quality of life that characterizes its territory and that this quality of life, the environment and public health can be disturbed by the abusive application of pesticides and fertilizers.

WHEREAS there are well-documented harmful consequences of pesticide use, particularly misuse.

WHEREAS the precautionary principle and the existence of alternatives to pesticides and fertilizers prompt the Town Council of the Town of Brome Lake to ban their use on its territory.

WHEREAS a notice of motion of the present by-law was given on

CONSEQUENTLY:

IT IS HEREBY DECREED AS FOLLOWS:

ARTICLE 1 REPEAL PROVISION

This by-law repeals and replaces by-law 432 and its amendments.

ARTICLE 2 DEFINITIONS

In these regulations, unless the context indicates otherwise, the following terms shall have the same meaning:

Soil amendment: Certified 100% natural product with a nitrogen and phosphorus content of less than 2% that provides the soil with substances capable of improving its physical or physico-chemical properties, and consequently its biological and chemical properties. (*amended by By-law 538, section 1*)

Application: Means any method of applying a pesticide or fertilizer outdoors, including, but not limited to: watering, spraying, vaporizing, sprinkling or any other form of deposit or discharge.

Competent authority: Town-appointed personnel.

Domestic compost: Stabilized solid biological product produced by composting, on the property, organic debris from food preparation, landscaping and gardening.

Fertilizer: Any product based on chemical, synthetic or natural components, manure or compost used to promote the development of plants, shrubs or trees.

Contractor: Means and includes any individual or legal entity possessing the necessary permits and/or certificates, who carries out or plans to carry out pesticide application in return for payment.

Infestation: Means and includes the presence of weeds, insects, molds or other destructive agents that create a threat to human health, animal life or cause major damage to property.

Littoral: The part of a lake or water body that extends from the natural high-water line towards the center of the water body.

Occupant: A person who occupies an immovable in a capacity other than that of owner, or in the case of a business establishment, the person who carries on an activity therein giving rise to liability to the tax on non-residential immovables.

Lawn: Vegetation cover, which may consist of grasses, leguminous plants or native ground cover plants.

Annual operating permit: Permit issued to a contractor in accordance with section 6.

Temporary application permit: Temporary permit issued on an ad hoc basis to deal with an infestation or to protect public health.

Pesticides: Any substance, material or microorganism intended to control, destroy, diminish, attract or repel, directly or indirectly, an organism that is harmful, noxious or troublesome to humans, wildlife, vegetation, crops or other property, intended to serve as a vegetation growth regulator, excluding a drug or vaccine unless it is topical for external use on animals as defined by the Pesticides Act (R.S.Q., c.P-9.3) and its regulations (Pesticides generally include, but are not limited to, all herbicides, fungicides, insecticides and other biocides). (modified Regulation 538, section 2)

Low-impact pesticides: Low-impact pesticides are pesticides that have minimal impact on the environment and human health. They will have several of the following characteristics

- they present the lowest short- and long-term risks to human health
- they have little impact on non-target organisms;
- they are highly specific to the target
- they are rapidly biodegradable
- they present the lowest risk to the environment during handling and disposal

Low-impact pesticides include, but are not limited to:

- biopesticides containing organisms that specifically attack certain insects, such as BT (*Bacillus thuringiensis*);
- biopesticides and pesticides recognized as class 5 under section 7 of the Regulation respecting permits and certificates for the sale and application of pesticides (R.S.Q., c.P-9.3, r.0.1), as indicated on the product label;
- fatty acids and insecticidal soaps with dormant oil that kill on contact and leave no residual effects on non-target organisms;
- botanical insecticides such as pyrethrins, which are moderately toxic but very short-lived;

- diatomaceous earth.

Owner: The person who holds the right of ownership of an immovable. The owner may, in writing, appoint a mandatary. The latter cannot be a contractor.

Shoreline: The shoreline is a strip of land bordering lakes or water bodies, extending inland from the high-water line. In general, and subject to specific standards for water bodies :

- The bank is 10 m deep measured horizontally when the slope is less than 30% or when the slope is greater than 30% and has a slope less than 5 m high;
- The shoreline is 15 m deep, measured horizontally, when the slope is continuous and greater than 30%, or when the slope is greater than 30% and has an embankment more than 5 m high.

Despite general standards :

1° For Brome lake *shoreline* at 15 m;

2° For the following stretches of *water body* the *bank* has:

- For the Yamaska river southeast branch from the eastern municipal boundary with Brome to the eastern boundary of zone UMV-4 (white zone) the *shoreline* has ;20 m
- For Durrel Creek the *bank* has ;20 m
- For the Yamaska river southeast branch from west municipal boundary with Dunham to route 139 *shoreline* a ;45 m
- For the Yamaska river (section located north of the municipality) from the western boundary with Bromont to the first dam, excluding the section of the river located within zone UMV-1 and URa-1 (Fulford), the *shoreline* has 45 m ;
- For Quilliams and Argyll creeks, the shoreline has 45 m. Notwithstanding the above, for the portion of Quilliams Creek bordering lots 1138-15, 1138-16 and 1587-1-P, the shoreline has 15 m. For a main building, a setback of 25 meters from the natural high-water line and a minimum average setback of 33 meters from the natural high-water line are required. This minimum average setback is calculated by averaging the distances between the main building and the closest point to the natural high-water line, taken at every 3 m along said building. No point on an existing or proposed main building may be closer than 25 m to the natural high-water line;
- For Coldbrook Creek, except for the section between Victoria Street and the dividing line between lots 1217 and 1290, the *bank* has ;45 m
- For the north *shore* of Mill Pond between the dividing line between lots 1215 and 1289 and the zoning line between the UCV-6 and UP-4 zones, the *shoreline* has .45 m

Solution: Any dilution of a concentrated product in a quantity of water in accordance with the manufacturer's guidelines.

Town: Town of Brome Lake.

ARTICLE 3 TERRITORY COVERED AND SCOPE OF APPLICATION

3.1 This by-law applies to the entire Town of Brome Lake territory.

3.2 This by-law applies to any person, citizen, company or organization that applies or plans to apply pesticides or fertilizers.

ARTICLE 4 PROHIBITION OF APPLICATION

No outdoor application of pesticides is permitted on the territory covered by this policy. No application of fertilizers to lawns is permitted on the territory subject to this policy, or on the shoreline or littoral of a water body.

ARTICLE 5 EXCEPTIONS

- 5.1 The application of low-impact pesticides is permitted.
- 5.2 The application of pesticides is authorized in public or private swimming pools or in enclosed artificial basins (the contents of which do not discharge into a water body or ditch), including during high water or heavy rainfall. *(modified by By-law 538, section 3)*
- 5.3 The application of pesticides in railway and power transmission right-of-ways for safety reasons only;
- 5.4 The application of pesticides is authorized for:
 - horticultural operations subject to the *Quebec Pesticide Management Code*;
 - agricultural purposes within the meaning of the *Agricultural Producers Act R.S.Q., c.P-28* governed by the *Quebec Pesticides Management Code*;
- 5.5 The application of pesticides is authorized following the granting of a temporary application permit in the event of a major infestation jeopardizing the health and survival of plants.
- 5.6 Pesticides may be applied under a temporary application permit to control or eradicate plants that pose a danger to humans who are allergic to them.
- 5.7 Pesticides may be applied under a temporary application permit to control or eradicate animals that pose a danger to humans.
- 5.8 The following are not subject to this by-law:
 - extermination work carried out indoors or on a building; application of insect repellents, rodenticides and sealed bait boxes for domestic use to eliminate ants;
 - insecticide collars for animals.
- 5.9 The application of soil improvers is permitted.
- 5.10 The application of domestic compost is permitted except on the shoreline and littoral.
5. The application of fertilizers on lawns is authorized after obtaining a temporary permit to enrich poor soil characterized by tests analyzed in a certified laboratory and the submission of a report by an agronomist.

ARTICLE 6 ANNUAL OPERATION PERMIT

No contractor may carry out a pesticide or fertilizer application governed by the present by-law unless he holds an annual permit issued for this purpose by the Town.

Any contractor (legal entity) wishing to apply pesticides must obtain the required annual operating permit from Town of Brome Lake. This permit is valid for the current year. The fee for issuing the permit is one hundred dollars (\$100.00).

The contractor must provide the following information:

- a) the name, address, telephone number and fax number of the contractor for notification purposes;
- b) proof that the contractor has public liability insurance, including activities related to pesticide application, of at least one million dollars (\$1,000,000.00);
- c) a list of products to be used in applications, including trade names, generic names of active ingredients, MSDS for each pesticide or fertilizer and registration numbers of pesticides used;
- d) proof that the contractor has the necessary permits and/or certificates issued by the authority responsible for the application of the *Pesticides Act (R.S.Q. c.P-9.3)* or any regulation enacted under the authority of this Act;
- e) when applying pesticides or fertilizers, vehicles used for spreading must be clearly identified with the contractor's name.

ARTICLE 7 TEMPORARY PESTICIDE APPLICATION PERMIT

- 7.1 Only the owner or his agent may apply for a temporary application permit.
- 7.2 The permit application must be submitted to the competent authority as defined.
- 7.3 The competent authority must confirm the infestation or danger before issuing a temporary pesticide application permit. This permit will be valid for a period of 7 days from the date of issue.
- 7.4 The temporary application permit will be issued when all known, environmentally friendly alternatives have been exhausted, including the application of low-impact pesticides.
- 7.5 Upon request by the Town, the owner and/or occupant must provide a description of the pest to be controlled by the contractor, the low-impact methods used and any other relevant information mentioned on the temporary permit application form.
- 7.6 Application must comply with the requirements set out in articles 8, 9 and 10 and with the specific requirements set out in the permit.
- 7.7 When a repeated application of pesticides is required for the same condition, a new permit must be obtained. In addition, a minimum of 14 days must elapse between two applications.
- 7. Pesticides may only be applied by contractors who have obtained an annual application permit issued by the Town.
- 7.9 Any owner and/or occupant who obtains a temporary application permit must visibly affix said permit in a window on the front of the property concerned, for the entire period of validity.

ARTICLE 8 PROVISIONS RELATING TO THE APPLICATION OF PESTICIDES

For all exceptions covered by article 5, the user must comply with the following requirements:

- 8.1 All pesticide applications must be carried out by a contractor possessing the necessary permits and/or certificates issued by the authority responsible for enforcing *the Pesticides Act*.
- 8.2 Pesticide application must be suspended when the weather forecast predicts rain within a period of time that will not ensure the effectiveness of the treatment. Unless otherwise indicated on the product label, a period of four (4) hours before and four (4) hours after application must be observed.
- 8.3 Pesticides must not be applied outside buildings when the temperature during the day is expected to exceed or is likely to reach 25 degrees Celcius, unless otherwise indicated on the product label.
- 8.4 No pesticide applications should be made when wind speeds exceed 10 km/hour, as observed by the nearest weather service.
- 8.5 It is the joint responsibility of the owner and user to give written notice, where applicable, to neighbors adjacent to the land affected by the pesticide application. This notice must be given at least forty-eight (48) hours before application. For this purpose, a standard letter must be obtained from the Town's competent authority.
- 8.6 For all pesticide applications on the grounds of apartment buildings (including condominiums), the owner or his agent must notify occupants at least forty-eight (48) hours in advance of the date and time of pesticide application and the products to be used. For this purpose, a standard letter must be obtained from the Town's competent authority.
- 8.7 Pesticides may be applied from Monday to Friday between 9:00 am and 4:00 pm. No applications are permitted on statutory holidays.

SECTION REQUIREMENTS FOR PESTICIDE APPLICATION

- 9.1 Before applying pesticides, anyone preparing a pesticide solution must :
 - 9.1.1 Place in a well-lit, well-ventilated, wind-free area.
 - 9.1.2 Keep more than thirty (30) meters from any water body, lake, well or source of drinking water.
 - 9.1.3 Prepare only the quantity of pesticide solution required for the intended application.
 - 9.1.4 Have emergency equipment at hand.
 - 9.1.5 Keep pesticide label in sight, indicating recommended precautions and first aid in case of poisoning.
 - 9.1.6 Remove toys, bicycles and paddling pools from the premises, as well as any container that may contain food and any food intended for anyone or any animal.
 - 9.1.7 Check that application equipment is free of leaks and in good working order.
 - 9.1.8 Take measures to prevent contamination of swimming pools, vegetable gardens, sandboxes and all non-removable play equipment.
 - 9.1.9 Prevent smoking, drinking or eating on the premises during application.

9.2 During pesticide application

9.2.1 The user must avoid any situation where pesticides could contaminate people and domestic animals.

In all cases, the user must stop applying pesticides when anyone or domestic animals are present.

9.2.2 During pesticide application, the contractor must maintain a minimum protective strip of:

- 2 metres from adjacent property lines unless express written permission is obtained from the neighbor;
- 2 meters drainage ditch;
- 5 meters from schoolyards, daycare centers, community buildings, retirement homes, day camps, parks, and over:
 - 15 meters from a water body or lake;
 - 30 metres from a groundwater well or surface water intake;
 - 300 meters from a water supply intake from a waterworks or bottled spring water system.

9.2.3 No treatment may be carried out on school grounds, playgrounds, rest areas, parks or grounds frequented by the public.

9.2.4 No treatment may be carried out on land adjacent to school grounds, playgrounds, rest areas, parks or land attended by the public during busy hours.

9.3 After pesticide application: rinse and display

9.3.1 It is forbidden to discharge rinses into a water body, ditch, sewer, septic tank or onto the property of others.

9.3.2 It is the contractor's responsibility to ensure that, following any pesticide application, warning signs are installed to inform the public that a pesticide treatment has taken place and that contact with the treated surface should be avoided. These signs must be placed in such a way that they can be read without walking on the treated surface.

9.3.3 It is the responsibility of the owner and/or occupant to ensure that warning signs remain in place for a period of 72 hours following pesticide application.

9.3.4 Without diminishing the scope of paragraphs 9.3.2 and 9.3.3, this does not preclude the installation of any other signs that may be required by any higher authority.

9.3.5 For pesticide applications, signs every ten (10) meters must be posted at the perimeter of each treated surface, where the treated surfaces face public thoroughfare. One sign must be placed in an unfenced backyard.

ARTICLE 10 TEMPORARY LAWN FERTILIZER APPLICATION PERMIT

10.1 Only the owner or his agent may apply for a temporary permit to apply fertilizer to a lawn.

10. The permit application must be submitted to the competent authority as defined and be accompanied by a report by an agronomist justifying the land application and certifying that soil improvement cannot be obtained by the application of domestic compost and soil improver.
- 10.3 A temporary permit to apply fertilizer to a lawn will be issued if the soil of the area to be fertilized contains less than 40 ppm phosphorus (89.6 kg P₂O₅/ha) and a phosphorus-to-aluminum ratio of less than 7% (obtained by the Mehlich-3 method).
- 10.4 This permit will be valid for a period of 3 months from the date of issue.
- 10.5 Only a contractor who has obtained an annual application permit issued by the Town may apply fertilizer to a lawn.
- 10.6 Any owner and/or occupant who obtains a temporary permit to apply fertilizer to a lawn must visibly affix said permit in a window on the front of the property concerned, for the entire period of validity.
- 10.7 After fertilizer application: rinse and display
 - 10.7.1 It is forbidden to discharge rinses into a water body, ditch, sewer, septic tank or onto the property of others.
 - 10.7.2 It is the contractor's responsibility to ensure that, following any fertilizer application, warning signs are installed to inform the public that a fertilizer treatment has taken place and that contact with the treated surface should be avoided. These signs must be placed in such a way that they can be read without stepping on the treated surface.
 - 10.7.3 It is the responsibility of the owner and/or occupant to ensure that warning signs remain in place for a period of 72 hours following the application of the fertilizer.
 - 10.7.4 Without diminishing the scope of paragraphs 9.3.2 and 9.3.3, this does not preclude the installation of any other signs that may be required by any higher authority.
 - 10.7.5 For pesticide applications, signs every ten (10) meters must be posted at the perimeter of each treated surface, where the treated surfaces face the public thoroughfare. One sign must be placed in an unfenced backyard.

ARTICLE PENALTIES / FIRST AND SUBSEQUENT OFFENCES

The competent authority is authorized to issue a statement of offence on behalf of the Town.

- 11.1 Any person who contravenes any of the provisions of the present by-law is liable to a fine and/or costs. Such fine shall not be less than ONE HUNDRED dollars (\$100.00) nor exceed ONE THOUSAND dollars (\$1,000.00) if the offender is a physical person, or less than FIVE HUNDRED dollars (\$500.00) nor exceed TWO THOUSAND dollars (\$2,000.00) if the offender is a legal entity.
- 11.2 For a repeat offence, the fine must not be less than TWO HUNDRED dollars (\$200.00) nor exceed TWO THOUSAND dollars (\$2,000.00), if the offender is a physical person, or less than ONE THOUSAND dollars (\$1,000.00), nor exceed FOUR THOUSAND dollars (\$4,000.00), if the offender is a legal entity.

11.3 The provisions of the Code of Penal Procedure apply to any proceedings instituted under the present by-law.

11.4 Each day that this infraction continues, it will be considered a separate and distinct offense.

ARTICLE ENVIRONMENTAL QUALITY ACT

The present by-law does not diminish the obligations created by the Environment Quality Act (R.S.Q., chap. Q-2,) or the regulations adopted pursuant thereto, nor does it prevent the Town from instituting any other civil or penal recourse deemed useful in order to preserve the quality of the environment, in addition to the recourse provided for in the present by-law.

ARTICLE APPLICATION RESPONSIBILITY

13.1 The competent authority is responsible for enforcing this by-law. They are authorized to visit and examine, between 7 a.m. and 7 p.m., all movable and immovable property, as well as the exterior and interior of any house, building or structure whatsoever, to ascertain whether this by-law is being complied with, and any owner, tenant or occupant of such houses, buildings or structures is obliged to receive them and answer all questions put to them concerning the enforcement of this by-law.

13.2 When applying pesticides and fertilizers, the competent authority may examine the products or other equipment on the premises, take samples and install measuring equipment. The competent authority is authorized to take samples from buildings as defined in the present by-law.

ARTICLE NOISE

The application of a pesticide or fertilizer in derogation of a provision of the present by-law constitutes a nuisance.

ARTICLE ABROGATION

This by-law repeals and replaces Town of Brome Lake by-law number 432.

ARTICLE COMING INTO FORCE

These regulations come into force in accordance with the law.

DONE AND ADOPTED at the regular meeting of March 1^(st), 2010.

Gilles Descelles, Mayor

Me Alain R. Roy, LL.M., Clerk

Notice of motion : February 1, 2010
Adoption : March 1, 2010
Published : March 17, 2010

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